HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL NO.1006 OF 2006

Between:

Ms.Neha Yadav
. . .Appellant

AND

The State of Andhra Pradesh and others
. . .Respondents

Counsel for the Appellant : Ms. Udayasri
for Shri G.Vidyasagar

Counsel for the respondent Nos.1&2 : Government Pleader for
Medical, Health and
Family Welfare

Counsel for respondent No.3 : Ms. K.Jayasree
for Shri D.V.Nagarjunababu

Counsel for respondent No.4 : None

Dated: 30th October, 2006

: JUDGMENT :

PER G.S.SINGHVI, CJ

This appeal is directed against order dated 26.09.2006 passed by the learned Single Judge in W.P.M.P.No.25342 of 2006, whereby he declined the appellant's prayer for suspending the operation of order dated 20.09.2006 issued by N.T.R. University of Health Sciences (for short 'the University') cancelling her admission in 1st year B.D.S. course for the year 2006-2007.

Ordinarily, in exercise of the power vested in it under Clause 15 of the Letters Patent, the Division Bench is reluctant to interfere with the discretion exercised by the learned Single Judge to grant or not to grant interim relief to the aggrieved person, but keeping in view the fact that the appellant's career as a student of 1st year B.D.S. course is at stake and the undisputed position that before cancelling her admission in B.D.S. course, neither the University nor Andhra Pradesh Sainik Welfare Board (for short 'the Board') gave her any action-oriented notice or opportunity of hearing, we are inclined to entertain the prayer of the appellant.

We have heard learned counsel for the parties and perused the record.

Since the main petition, which has been registered as W.P.No.20067 of 2006 is yet to be decided by the learned Single Judge, we are not expressing any conclusive opinion on the legality or otherwise of the appellant's admission to B.D.S. course. However, for the purpose of deciding this appeal, it is sufficient to observe that at the time of counselling, the appellant and her father had produced all the documents necessary to establish her eligibility and entitlement to be

admitted to the medical courses against the seats reserved for the Children of Armed Personnel. The representative of the Board had scrutinized the documents produced by the appellant and her father and recommended her admission to B.D.S. course. Therefore, it is reasonable to take the view that the authorities had duly applied their mind to the record produced by the appellant and her father and felt convinced that she fulfills the criteria of eligibility laid down in the relevant statutes. However, on the basis of subsequent enquiry conducted at the back of the appellant and her father, the authorities of the Board came to the conclusion that her father could not be treated as Ex-Servicemen and issued direction to the University to cancel her admission. On its part, the competent authority of the University did not think it proper to notice the appellant and give her an opportunity to explain her position on the issue of her eligibility and straight away issued order dated 20.09.2006 cancelling her admission.

In our opinion, the action taken by the Board and the University authorities is per se contrary to the basics of natural justice inasmuch as she has been condemned unheard. Therefore, keeping in view the wider interpretation given by the Supreme Court to the rule of audi alteram partem in **State of Orissa v. Binapani Dei**[1], **Maneka Gandhi v. Union of India**[2], **S.L.Kapoor v. Jagmohan**[3], **Olga Tellis v. Bombay Municipal Corporation**[4], we are convinced that it is a fit case in which judicial intervention is warranted with the interlocutory order passed by the learned Single Judge declining stay of order dated 20.09.2006.

In the result, the appeal is allowed. Order impugned in the appeal is set aside. Consequently, W.P.M.P.No.25342 of 2006 filed by the appellant in Writ Petition No.20067 of 2006 shall stand allowed and operation of order dated 20.09.2006 passed by the University

cancelling the appellant's admission shall remain stayed till final adjudication of the writ petition.

As a sequel to disposal of the writ appeal, W.A.M.P.No.2135 of 2006 filed by the appellant for interim relief is disposed of as infructuous.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

Date: 30.10.2006

kvni/Ars

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[1] AIR 1967 SC 1269
[2] AIR 1978 SC 597
[3] AIR 1981 SC 136
[4] AIR 1986 SC 180